

AO 91 (Rev. 11/11) Criminal Complaint

FILED**SEALED**

UNITED STATES DISTRICT COURT

for the

Western District of Texas

MAY 17 2019

United States of America
v.

LYNN MAXWELL GERSTNER

Case No. 5:19-MJ-557

CLERK, U.S. DISTRICT CLERK
WESTERN DISTRICT OF TEXAS

DEPUTY

Defendant(s)

CRIMINAL COMPLAINT

I, the complainant in this case, state that the following is true to the best of my knowledge and belief.

On or about the date(s) of October 2018 thru April 23, 2019 in the county of Bexar in the
Western District of Texas, the defendant(s) violated:

Code Section

Offense Description

18/2251(a)

Production of Child Pornography

Penalties:

15-30 years imprisonment

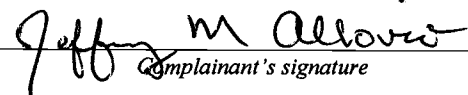
\$250,000 fine

Lifetime of Supervised Release

\$100 special assessment, \$5,000 assessment pursuant to 18 USC 3014

Forfeiture, Restitution

This criminal complaint is based on these facts:

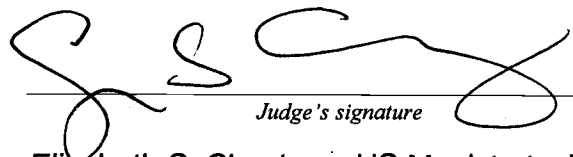
☒ Continued on the attached sheet.

Complainant's signature

Jeff M. Allovio, SA, FBI

Printed name and title

- ☐
- Sworn to before me and signed in my presence.
-
- ☒
- Sworn to telephonically and signed electronically.

Date: 5/17/2019City and state: San Antonio, Texas

Judge's signature

Elizabeth S. Chestney, US Magistrate Judge

Printed name and title

AFFIDAVIT IN SUPPORT OF ARREST WARRANT

I, Jeffrey M. Allovio, being duly sworn, depose and say that:

1. I am a Deputy with the Bexar County Sheriff's Office ("BCSO") and am assigned to the Federal Bureau of Investigation ("FBI") San Antonio Child Exploitation Task Force ("SACETF") in the San Antonio Division of the FBI where I serve as a Federal Task Force Officer (TFO). I have been a Special Agent and Supervisory Special Agent of the FBI from the period of 1983 to 2017 and formerly supervised crimes against children investigations and child pornography investigations. In my capacity as a member of the SACETF, I am assigned to the Violent Crimes against Children Section and as such, I investigate crimes against children, including the trafficking, possession, and production of child pornography and the sexual exploitation of children. I have received particularized training in the investigation of computer-related crimes, peer-to-peer computer networking, and online (i.e. Internet based) crimes against children. I have been involved in numerous investigations of individuals suspected of producing, distributing and receiving child pornography and have participated in the execution of numerous search warrants which have resulted in the seizure of multiple items of child pornography. I have had the occasion to become directly involved in investigations relating to the sexual exploitation of children, and have gained experience in the conduct of such investigations through formal training and on-the-job training.

2. As a federal task force officer, I am authorized to investigate violations of United States laws and to execute warrants issued under the authority of the United States.

3. This affidavit is being submitted in support of a Criminal Complaint for **LYNN MAXWELL GERSTNER**, date of birth, **XX/XX/1949**.

4. The factual information supplied in this affidavit is based upon your Affiant's own investigation of this matter, as well as information provided by other law enforcement officers. Since this affidavit is submitted for the purpose of securing an arrest warrant, it does not include every fact known to the affiant concerning this investigation. The affiant has set forth facts that he believes establish probable cause to believe that **LYNN MAXWELL GERSTNER**, has violated the provisions of Title 18, U.S.C., Section 2251(a) – Production of Child Pornography,

Title 18, U.S.C., Section 2252A(a)(2) – Distribution of Child Pornography, Title 18, U.S.C., Section 2252A(a)(2) – Receipt of Child Pornography, and Title 18, U.S.C., and Section 2252A(a)(5)(B) – Possession of Child Pornography.

5. The above captioned case was initially opened by both the BCSO and the FBI based on information reported by a child victim's employer in South Carolina. The FBI and the BCSO thereafter conducted investigations involving Lynn Gerstner's online activities in connection with child pornography and the exploitation of children violations. The investigations reflected that Gerstner was in contact using the telephone application named Instagram and through text messaging with a minor female located in South Carolina, hereafter referred to as Child Victim (CV). Gerstner had CV produce and send him child pornography videos, and he in turn sent some of the videos back to her. Gerstner had provided CV a telephone in order to communicate and produce child pornography and the telephone was recovered by the FBI. The child pornography videos were recovered, along with sexually explicit chats between Gerstner and CV. Both CV and Gerstner were interviewed by the FBI and confirmed the above mentioned activity.

6. CV was interviewed by the FBI in South Carolina on or about April 8, 2019 and provided details regarding how the online relationship became sexual in nature. Gerstner identified himself to CV as Lynn Maxell Gerstner, age 69, and preferred CV to call him "Max" or "Daddy". Gerstner began to communicate more frequently with CV and became bolder talking openly about the topic of sex. Gerstner asked her to send him pictures of her with clothes on at first, and then soon began to ask for nude photos of CV. Gerstner mailed CV an iPhone, which she was to utilize to communicate with him. At the request of Gerstner, CV produced and shared nude photos and videos of herself that were sent to him over the Internet utilizing the Instagram application. Gerstner sent CV pornographic videos and images of young girls having sex with older men. Gerstner also mailed CV various "sex toys" and instructions on how to use these devices. Gerstner wanted CV to dress up as a small child and requested she purchase diapers, baby bottles, and pacifiers with money he sent to her. Because of Gerstner's demands, CV tried to break off the relationship. Gerstner thereafter threatened to expose their online behavior by sharing photos and videos of her on the Internet and with her employer. This threat proved to be true when Gerstner contacted her employer.

7. CV's employer received an email from Gerstner. Gerstner said he had videos of CV that were "extremely sexual in nature" and thought she should be terminated from her employment.

CV's employer thereafter spoke with CV, and CV explained what had occurred, including the fact that Gerstner was now stalking her. CV's employer thereafter contacted the BCSO and the FBI in South Carolina to report the activity. In response to the complaint filed by CV's employer, BCSO opened a case, and a uniformed BCSO deputy went to Gerstner's residence on or about March 26, 2019 to speak with Gerstner. A body cam recorded the contact with Gerstner. Gerstner acknowledged receiving nude photos and images from CV and that he had been in contact with CV's employer.

8. The FBI conducted a forensic review of the iPhone that Gerstner provided to CV and found that the iPhone contained nude images/videos as described by CV, which depicted the lasciviously display of her genitalia. TFO Allovio reviewed some of the screenshots of the videos contained on this telephone that were forensically recovered. The files appear to be created on or about October 13, 2018. The screenshots reflect a series of images, some that contain the face of CV and others depicting objects inserted into a vagina. The telephone also contained detailed text messages that CV stated were communications CV had with Gerstner. The chats include the following statements:

Gerstner: *"Of all the vids, the ones where you use your fingers are the hottest" (10/21/2018)*

Gerstner: *"Promise you will put your fingers to work right away so your kitty will learn how to cum better, faster and longer by the time daddy gets to lick it. DEAL?" (10/21/2018)*

Gerstner: *"I have a lot of fond memories of our time together. No, not just the 141 vids and 88 photos of you playing with your body." (10/27/2018)*

Gerstner: *"These are a little hotter; find yer toys; insert your toys; try to cum ... Oh, my favorite one is (CV) fingering her kitty and eat as much pussy juice she can produce" (11/8/2018)*

Gerstner: *"So yer an underaged little and I am a predator" (11/10/2018)*

9. On April 23, 2019, BCSO executed a search warrant at the residence of Gerstner located on New World Drive, San Antonio, Texas. Several telephones and computers were recovered. Gerstner was interviewed by TFO Jeffrey Allovio and admitted sending and receiving child pornography through KIK Messenger and through text messaging. He further admitted to having been in contact with CV through Instagram and text messaging and that he asked her to

produce videos of her engaged in a variety of sex acts and send them to him. She did as requested, and he received these videos of her. He also admitted sending some of the videos back to her during their communication. He was aware that CV was under the age of 18 and his actions were illegal. During interview, he reviewed some of the text messages between CV and himself and reviewed the screenshots of the pornographic videos of CV that he received. He confirmed he was the person who made these communications and identified these screenshots. He further advised he had other child pornography material on his iPhones that were recovered at the residence. Gerstner identified his white iPhone as the device he used to communicate with CV. After this telephone was partially damaged, he purchased a black iPhone that he said also contained child pornography.

10. On May 16, 2019, TFO Allovio met with BCSO forensic examiner Tony Kobryn and reviewed the forensic results for the two iPhones seized from Gerstner at his residence.

10.1 The newer black iPhone contained numerous images of child pornography, some that he distributed, that included the following images:

(1) An image depicting a female child, approximately 7 years of age, with her legs spread apart openly exposing her vagina with a lolly pop in her mouth and hand.

(2) An image depicting a nude female child, approximately 5-6 years of age, with her legs spread apart, openly exposing her vagina and inserting her finger in her vagina.

10.2 The older white iPhone contained nude images of CV and images of child pornography that included the following images:

(1) The image depicts CV in a nude state showing her face and breasts (2/16/2019).

(2) The image depicts a female child sitting on a bench, approximately 8-9 years of age, wearing a green shirt with her underwear removed exposing her vagina.

11. On April 29, 2019, Gerstner voluntarily appeared at the office of the FBI for a polygraph and interview. Gerstner provided a written statement that again confirmed that he received child pornography videos of CV, and he reported that their online relationship was of a sexual nature. He also identified several contacts who he believes are minors that he had been communicating

with, some who were sending him pornographic videos of themselves. During the interview, Gerstner initially said that he had temporarily borrowed a friend's telephone as his telephones were seized during the execution of the search warrant this past week. He then advised that he had lied to the FBI and had actually purchased a new iPhone8 telephone the day after the execution of the search warrant by BCSO. While at the Apple store making the telephone purchase, he downloaded his contacts from his iCloud account, and his stash of child pornography was also downloaded from the iCloud account onto the new telephone. He said he then deleted this material from the new telephone. Gerstner provided voluntary consent for the FBI to image and review this telephone that he currently had in his possession in his vehicle. When the telephone was imaged by the FBI, the FBI forensic examiner observed a large volume of child pornography files were still on the telephone, along with search terms that were used to search for child pornography on the Internet. Due to this fact, the telephone was not returned back to Gerstner by the FBI because it contained contraband. A federal search warrant for this telephone was thereafter obtained.

8. On April 29 and 30, 2019, TFO Allovio reviewed some of the material that were on the mentioned iPhone8 that Gerstner had in his possession at the office of the FBI. A large volume of images and videos were observed to appear to contain be child pornography. The review included the following images:

(1) An image depicting a nude female child, approximately 8 to 10 years of age, with her legs spread apart openly exposing her vagina.

(2) An image depicting a nude male child, approximately 6 years of age, with his legs spread apart, openly exposing and touching his penis with his hand.

(3) An image depicting the face of a female child, approximately 4 years of age, with an erect penis near her mouth.

(4) An image depicting a female child, approximately 8 years of age, with an erect penis in her mouth.


(5) An image depicting a nude female child, approximately 10 years of age, with her legs spread apart, with an erect penis inserted into her vagina.

(6) An image depicts a female child, approximately 5 years of age, nude from the waist down, with a male penis near her mouth and a white substance on her mouth.


Application

19. Based on the aforementioned facts, your Affiant respectfully submits that there is probable cause to believe that: (1) on or about October 2018, **LYNN MAXWELL GERSTNER**, did knowingly employ, use, persuade, induce, entice, or coerce a minor to engage in, or had the minor assist any other person to engage in, sexually explicit conduct for the purpose of producing any visual depiction of such conduct, in violation Title 18, United States Code, Section 2251; (2) on or about October 2018, **LYNN MAXWELL GERSTNER**, did knowingly distribute child pornography that has been mailed, or shipped or transported in interstate or foreign commerce by any means, including by computer; (3) on or about October 2018, **LYNN MAXWELL GERSTNER**, did knowingly receive child pornography that has been mailed, or shipped or transported in interstate or foreign commerce by any means, including by computer; and (4) on or about April 23, 2019, **LYNN MAXWELL GERSTNER**, did knowingly possess material containing child pornography that has been mailed, or shipped or transported in interstate or foreign commerce by any means, including by computer. Your affiant respectfully requests that the Court issue an arrest warrant based on the information provided in this affidavit.

FURTHER AFFIANT SAYETH NOT,


Task Force Officer Jeffrey M. Allovio,
Federal Bureau of Investigation
FBI San Antonio Crimes Against Children Task Force

Sworn to and subscribed before me this 17 day of May 2019.


THE HONORABLE ELIZABETH CHESTNEY
UNITED STATES MAGISTRATE JUDGE
WESTERN DISTRICT OF TEXAS